

§ 159B-24. Approval and sale of bonds.

Prior to the acquisition or the commencement of construction of any project consisting of a system or facilities for the generation of power and energy which is to be financed by the issuance of bonds under the provisions of this Chapter, the participating municipalities or joint agency, as the case may be, shall first obtain a certificate of public convenience and necessity and, in the same proceeding, the approval required by G.S. 159B-4 hereof, in the case of the participating municipalities, or the approval required by G.S. 159B-11 hereof, in the case of a joint agency, from the North Carolina Utilities Commission under such rules, regulations and procedures as the Commission may prescribe.

No municipality or joint agency shall issue any bonds pursuant to this Chapter unless and until, and only to the extent that, the issuance of such bonds is approved by the Local Government Commission. A participating municipality or joint agency shall file with the secretary of the Local Government Commission an application for Commission approval of the issuance of the bonds upon such form as the said Commission may prescribe, which form shall provide for the submission of such information as the secretary may require concerning the proposed bond issue, the details thereof and the security therefor. Before he accepts the application, the secretary may require the governing board or its representatives to attend a preliminary conference at which time the secretary and his deputies may informally discuss the details of the proposed issue and the security therefor.

After an application in proper form has been filed, and after a preliminary conference if one is required, the secretary shall notify the municipality or joint agency in writing that the application has been filed and accepted for submission to the Commission. The secretary's statement shall be conclusive evidence that the municipality or joint agency, as the case may be, has complied with the requirements of this section with respect to the filing of an application for approval by the said Local Government Commission.

In determining whether a proposed bond issue shall be approved, the Commission may consider:

- (1) The municipality's or joint agency's debt management procedures and policies.
- (2) Whether the municipality or joint agency is in default with respect to any of its debt service obligations.
- (3) Whether, based upon feasibility reports submitted to it, the probable revenues of the project to be financed or the revenues of the municipality's electric system, as the case may be, will be sufficient to service the proposed bonds.

The Commission may inquire into and give consideration to any other matters that it may believe to have a bearing on whether the issue should be approved except matters which are expressly required by the provisions of this Chapter to be determined by the North Carolina Utilities Commission.

The Commission shall approve the application if, upon the information and evidence it receives, it finds and determines:

- (1) That, based upon engineering studies and feasibility reports submitted to it, the principal amount of the proposed bonds will be adequate and not excessive for the proposed purpose of the issue.
- (2) That the municipality's or joint agency's debt management procedures and policies are good, or that reasonable assurances have been given that its debt will henceforth be managed in strict compliance with law.

- (3) That the requirements of this Chapter with respect to the issuance of the bonds and the details thereof and security therefor have been, or will be, satisfied.
- (4) That the issuance of the proposed bonds will effectuate the purposes and policies of this Chapter.

After considering an application, the Local Government Commission shall enter its order either approving or denying the application. An order approving an issue shall not be regarded as an approval of the legality of the bonds in any respect.

If the Commission enters an order denying the application, the proceedings under this section shall be at an end.

At any time after the Commission approves an application for the issuance of bonds, the governing board of the issuer may adopt a bond resolution or enter into a trust agreement in accordance with the provisions of this Chapter, and may thereafter at one time, or from time to time, issue the bonds as provided herein.

Upon the filing with the Local Government Commission of a resolution of the issuer requesting that its bonds be sold, such bonds may be sold in such manner, either at public or private sale, and for such price as the Local Government Commission shall determine to be for the best interest of the issuer and effectuate best the purposes of this Chapter, provided that such sale shall be approved by the issuer.

Except as herein expressly provided, bonds may be issued and sold under the provisions of this Chapter without obtaining the approval or consent of any other department, division, commission, board, bureau or agency of the State, and without any other proceeding or the happening of any other condition or thing than those proceedings, conditions or things which are specifically required by this Chapter. (1975, c. 186, s. 1; 1995, c. 412, s. 15.)